

**National Grain and Feed Association**

Testimony

to the

**Surface Transportation Board**

229904

June 22, 2011

We appreciate the opportunity to testify in this important proceeding, and we thank the STB for initiating this dialogue on rail competition. I am Kendell Keith. I am president of the National Grain and Feed Association (NGFA), based in Washington D.C.

The NGFA has over 1,000 member companies that own and operate some 7,000 facilities nationwide. Our members are in the elevator business (grain trading and handling), exporting, and in the processing businesses----flour milling, soy processing, corn wet mills and dry mill ethanol plants, and feed operations.

Agricultural shippers are unique in this part of the transportation markets, as there is not a heavy volume of single point-to-point shipments, but rather many origination points to many destination points. This different situation for agricultural shippers does cause some concern about how policy issues are handled.

**Competition is Very Important in the Rail Markets and the National Economy**

The U.S. rail industry was in drastic financial shape in the late 1970s. A main reason for this was that regulation by government did not allow innovation and market forces to govern the railroads' actions in the market. We are in a much different and overall improved situation today as the railroads have considerable market freedoms to run their business and price their services to generate profits needed for longer term investments.

Given the positive factors that have contributed to rail markets' success, we would discourage the STB and the Congress from adopting changes that could further reduce competition in the transportation marketplace. Competition is good for industries and the employees they hire. It maintains a competitive edge that helps companies succeed.

In the U.S., where there are relatively short hauls and trucks can compete, rail rates tend to be lower. In export movements where there are competitors that have access to barge transportation, rates also tend to be lower and more competitive. So there are locations from which agricultural shipments originate where there is adequate competition. But there are other locations that would clearly benefit by additional competition. "Low" rates are not the only outcome that the agriculture industry is seeking. We want to be competitive and expand the business and create jobs. To do that we need a partner in the rail industry to assist in responding to competitive market forces, both domestically and internationally. We need reasonable rates; reasonable business terms and quality service. We also need access to a reasonable and cost effective method to address problems with rates, terms and service.

From an agricultural market viewpoint, we think a major benefit that STB could provide is to review policies relating to switching charges. Switch rates in some cases have increased to \$500 per car, or roughly 500% of variable cost which effectively shuts off access to many markets. We believe that, just as carriers do not want to be re-regulated, neither should they have a free hand in cutting off existing physical and economic access through closures or excessive switch rates. To allow such autonomy on switch charges will have a negative impact on the competitive fabric of the nation's economy.

Since 1980, railroads have lost market share in the agricultural industry. In 1980, the rail carriers handled 50% of commercial rail grain volume in the U.S. Today, those same carriers handle 35% of the volume. We in the grain and grain processing industries don't want this rail business volume trend to continue downward. For U.S. agriculture to remain globally competitive, we have to have access to affordable transportation to move grain out of the Dakotas, Kansas, Nebraska, Iowa, Minnesota, and other major production areas in the Midwest to ports and to processing and feeding facilities. Preserving competition will help to

make this outcome a reality, and we think could grow the railroads' agricultural traffic over time.

#### Railroad Financial Health

"Revenue Adequacy" was a huge issue in the Staggers Act, and deservedly so for the time that Act was passed by the U.S. Congress. Given the financial success of carriers recognized by Wall Street investors today, however, it seems like a term that may have lost its need, or revenue adequacy at least needs to have a major overhaul in its definition. Shippers and other customers of carriers are often accused of wanting to re-regulate carriers. But, when we talk about such terms as revenue adequacy these days, it seems to often create an unnecessary barrier to business dialogue to solve competitive and market access challenges.

#### Carriers and Shippers Alike Need Better Access to Problem Resolution

NGFA has a rail arbitration system for grain/feed shippers and carriers. It is a highly transparent alternative dispute resolution system which helps to create confidence among both shippers and carriers and helps business people communicate better. It is a system through which issues of dispute are arbitrated by peers in the industry---both grain-related business people and rail business people, which helps to make the basis of judgment both legal and pragmatic. Our main point on this discussion is that whatever dispute settlement system is agreed to, it must be understandable and practical. It must not require lawyers to handle all the details, even though we acknowledge that in quite a number of situations, attorneys are needed to provide legal advice and clarity. And it needs to encourage one-on-one dialogue between carriers and their customers.

Again, NGFA appreciates the STB conducting this review of rail competition; and appreciates this opportunity to be involved.